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**ALLIANCEONE RECEIVABLES MANAGEMENT, INC.**

**A PROFESSIONAL DEBT-COLLECTION AGENCY**

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April 20, 2006

Chairman Kevin J. Martin  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, D.C. 20554

RE: CG Docket No. 02-278  
ACA International's Petition re FCC Autodialer Ban

Dear Chairman Martin:

I am General Counsel for AllianceOne Receivables Management, Inc., and its parent company, AllianceOne, Inc. I write from my office in Washington State. AllianceOne performs debt-collection and other accounts-receivable services for its creditor clients. It does not engage in telemarketing. We serve a wide variety of clients, including small mom-and-pop retailers, medical professionals, large financial institutions, and over one hundred governmental entities, ranging from the smallest municipalities, to county and state governments, to federal agencies.

Our industry is regulated by a myriad of federal, state and local laws and regulations. One federal law, the Telephone Consumer Protection Act (TCPA), did not concern us much until recently. Enacted in 1991, the TCPA was intended to protect consumers from invasive telemarketing calls. To that end, the TCPA prohibits the use of an "automatic telephone dialing system" (autodialer <sup>1</sup>) to call cell phones. Until 2003, this prohibition did not apply to autodialer calls *made for the purpose of recovering existing obligations*.

However, in July of 2003, and without any revision to the statute having occurred, the FCC expanded its interpretation of the definition of autodialer to include the type of predictive dialers used by the credit and collection industry (whose dialers do not generate numbers randomly or from sequential lists, but rather select specific numbers supplied by the creditors for specific accounts). Thus, calls made by creditors and their collection agents were inadvertently brought within the ban.

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<sup>1</sup> The TCPA defines an autodialer as, "equipment which has the capacity to store or produce telephone numbers to be called, using a random or sequential number generator; and to dial such numbers."

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The TCPA was never intended to help people avoid paying their legitimate obligations by hamstringing a creditor's ability to contact its customers. We use an autodialer solely to reach consumers who have obtained benefits without paying, or to otherwise collect obligations imposed by our governments. ***Under the FCC's current interpretation, we cannot even contact criminal defendants who have outstanding fines owed to the courts, not to mention unpaid restitution owed to crime victims.***

This decision has substantially harmed our business, and could be devastating to our industry and our clients. *AllianceOne alone in excess of ten million dollars (\$10,000,000.00) in overdue debt to its government clients every year, and many times that to other clients, and this "about face" in FCC policy threatens our ability to perform these quality services for our clients.*

Autodialers benefit consumers as well as creditors. The large majority of consumers who pay their obligations and taxes in a timely manner benefit because autodialers increase the effectiveness of collection efforts, and thereby help to avoid passing the cost of bad debt onto those consumer who pay timely (autodialers currently assist in returning *tens of billions of dollars* to the economy each year). Autodialers also eliminate mis-dialing due to human error, and the resulting aggravation that accompanies wrong-number calls. In addition, autodialers are programmed to restrict calls to the statutorily-permitted times in the time zone of the consumer, thus eliminating early-morning and late-night calls. Finally, many creditors use autodialers to contact their customers about late payments as a courtesy before accounts are turned over to collection—*banning their use may hasten assignment to collection and increase the instance of negative "in collection" reporting to the consumers' credit profiles.*

The FCC's current rule improperly subjects creditors, collectors even the federal government to regulatory enforcement and private litigation. The TCPA was designed to protect consumers from unwanted advertisements and telemarketing calls; Congress simply did not intend that the TCPA should be used to promote the non-payment of legitimate debt by prohibiting the use of autodialers to contact consumers on their wireless cell phones regarding those debts.

I urge you to grant the Petition for an Expedited Ruling filed by ACA International in this matter, and to ask the commission to grant ACA's request for clarification that autodialer calls made to cell phones to collect existing obligations are not prohibited under the TCPA.

Sincerely,

Kevin J. Martin

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Kevin Underwood

Vice President of Legal Affairs

AllianceOne, Inc

cc: ACA International